

# UNITED STATES DISTRICT COURT

for the

Western District of North Carolina

United States of America	)	
v.	)	
JIMMY DAVID CLEMONS	)	Case No: <u>1:04CR00088-001</u>
	)	USM No: <u>19752-058</u>
Date of Previous Judgment: <u>June 16, 2005</u>	)	<u>Chiege O. Kalu Okwara</u>
(Use Date of Last Amended Judgment if Applicable)	)	Defendant's Attorney

## Order Regarding Motion for Sentence Reduction Pursuant to 18 U.S.C. § 3582(c)(2)

Upon motion of ☒ the defendant ☐ the Director of the Bureau of Prisons ☐ the court under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and having considered such motion,

**IT IS ORDERED** that the motion is:

☐ DENIED. ☒ GRANTED and the defendant's previously imposed sentence of imprisonment (as reflected in the last judgment issued) of 63 months **is reduced to** 60 months.

### I. COURT DETERMINATION OF GUIDELINE RANGE (Prior to Any Departures)

Previous Offense Level: <u>24</u>	Amended Offense Level: <u>22</u>
Criminal History Category: <u>III</u>	Criminal History Category: <u>III</u>
Previous Guideline Range: <u>63</u> to <u>78</u> months	Amended Guideline Range: <u>60</u> to <u>63</u> months

### II. SENTENCE RELATIVE TO AMENDED GUIDELINE RANGE

- ☒ The reduced sentence is within the amended guideline range.
- ☐ The previous term of imprisonment imposed was less than the guideline range applicable to the defendant at the time of sentencing as a result of a departure or Rule 35 reduction, and the reduced sentence is comparably less than the amended guideline range.
- ☐ Other (explain): The previous term of imprisonment imposed in Count One was at the low-end of the applicable guideline range at the time of sentencing and any further reductions are limited by the statutorily required minimum sentence, per USSG §5G1.1(c)(2). This amended sentence for Count One does not affect the sentence previously imposed in Count Two regarding violation of 18 U.S.C. § 924(c).

### III. ADDITIONAL COMMENTS

Upon release from imprisonment, and absent a residential plan accepted by the U.S. Probation Officer prior to release from incarceration, it is ordered that as a condition of supervised release the defendant shall submit to the local Residential Reentry Center for a period not to exceed 90 days, with work release, at the direction of the U.S. Probation

Except as provided above, all provisions of the judgment dated June 16, 2005 shall remain in effect.

**IT IS SO ORDERED.**

Order Date: October 27, 2008

Effective Date: \_\_\_\_\_  
(if different from order date)

  
\_\_\_\_\_  
Lacy H. Thornburg  
United States District Judge

